

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:11cv241

MERLE WILLIAM OVERHOLSER,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
TATE & KIRLIN ASSOCIATES, INC.,)	
)	
Defendant.)	
_____)	

THIS MATTER is before the Court *sua sponte* to provide the Plaintiff with notice pursuant to Federal Rule of Civil Procedure 4(m).

On September 20, 2011, the Plaintiff initiated this action by filing a complaint. [Doc. 1]. On September 30, 2011, the Plaintiff filed an amended request for the waiver of service. [Doc. 4]. On December 13, 2011, summons issued electronically with instructions for counsel to print the summons and serve with other case opening documents. [Doc. 5].

To date, the Plaintiff has not filed proof of service. Federal Rule of Civil Procedure 4 provides:

If a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action

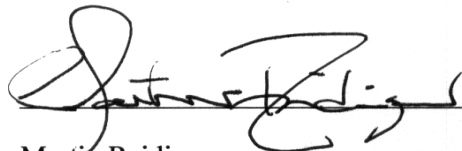
without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed.R.Civ.P. 4(m).

The Plaintiff is hereby placed on notice that unless good cause is shown for the failure to effect service of the summons and complaint on the Defendant, this action shall be dismissed without prejudice.

IT IS, THEREFORE, ORDERED that on or before fifteen (15) days of entry of this Order, the Plaintiff shall show good cause for the failure to effect service on the Defendant.

Signed: January 24, 2012


Martin Reidinger
United States District Judge

